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March 20, 2023

VIA ECF (WITH COURTESY COPY BY EMAIL)

Honorable Andrew L. Carter, Jr.
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007
Email: ALCarterNYSDChambers@nysd.uscourts.gov

Re: *Tao An et al. v. Weijian Shan et al.*, Case No. 1:22-cv-10060-ALC (S.D.N.Y.)

Dear Judge Carter:

We represent defendants Weijian Shan and Bo Shan (“defendants”) in this matter and write to alert the Court to two recent developments related to defendants’ motion for sanctions (Dkt. Nos. 31-34, 38).

First, on March 15, 2023, the U.S. Attorney’s Office for the Southern District of New York unsealed an indictment charging Miles Kwok, also known by Ho Wan Kwok and other names, with defrauding thousands of victims out of more than *\$1 billion*. *See* Ex. 1. Kwok is now in custody, pending a detention hearing. As explained in defendants’ motion for sanctions, this FARA action is part of Kwok’s larger campaign to intimidate adversaries in his ongoing bankruptcy proceedings by defaming and harassing them, their families, and their counsel. Dkt. No. 32 at 6-11. In support of its motion for pretrial detention, the U.S. Attorney’s Office cited examples of Kwok’s harassment of the bankruptcy trustee, Weijian Shan, and their families. Dkt. No. 38-5 at 13-14.

Second, two days later, on March 17, 2023, plaintiffs’ counsel in this case – Yongping Zhang and Richard Freeth – working with a local Maryland attorney, filed yet another frivolous action accusing defendant Weijian Shan of being a Chinese government spy and this time including Mr. Shan’s daughter, LeeAnn, as well. *See* Ex. 2 (complaint filed in *Wyatt et al. v. University of Maryland et al.*, Case No. 1:23-cv-00742 (D. Md.)) at 17-18.

This most recent action was filed in retaliation for the University of Maryland (“UMBC”) ordering Kwok’s protesters to leave campus; they had been staging daily protests there to harass Weijian Shan’s daughter, who is a graduate student at UMBC. Like the pleadings at bar, as well

JONES DAY

Honorable Andrew L. Carter, Jr.
 March 20, 2023
 Page 2

as those in *An v. Despins* and *Gong v. Sarnoff*¹ – all filed by Freeth and Zhang – the *Wyatt* complaint is in service of Kwok’s harassment campaign:

- The *Wyatt* allegations spread the false and defamatory allegations that Weijian Shan is a spy for the Chinese Communist Party, just like the allegations in this case, and just like the social media posts of Kwok and his supporters.²
- As in *Despins*, *Sarnoff*, and this case, the claims in *Wyatt* include one for violation of the Foreign Alien Registration Act (“FARA”), 22 U.S.C. § 611 *et seq.*,³ even though such claims are plainly frivolous given FARA’s lack of a private right of action. *See, e.g.*, *Weican Meng v. Xinhuanet Co.*, 16 CIV. 6127 (ER), 2017 WL 3175609, at *3 (S.D.N.Y. July 25, 2017); Dkt. No. 32 at 16-19.⁴
- Like this action, which targets Weijian Shan and his son, Bo, Dkt. No. 19 ¶¶ 81-82, the *Wyatt* complaint targets Weijian Shan and one of his other children, LeeAnn. *See* Ex. 2 ¶ 16. Kwok and his supporters have also targeted the Shan children and the bankruptcy trustee’s daughters by posting their photos and home addresses online and picketing at their homes. *E.g.*, Dkt. No. 38-5 at 13-14.
- Fourth, the named plaintiffs in *Wyatt* have already harassed the Shans on Kwok’s behalf: they admit to “picketing” Weijian Shan, his daughter, and “their connections to the CCP,” all on LeeAnn’s campus. Ex. 2 ¶¶ 4, 16, 32, 103. As noted in defendants’ sanctions motion, one of plaintiffs’ lawyers here, Mr. Zhang, has personally joined Kwok’s protests as well. Dkt. No. 34 ¶¶ 32-33.

Filing one meritless FARA action to further Kwok’s harassment campaign is egregious and sanctionable. Filing four in four months,⁵ in spite of fully briefed motions for dismissal and

¹ *An v. Despins*, 1:22-cv-10062 (S.D.N.Y.) [“*Despins* Dkt.”]; *Gong v. Sarnoff*, 1:23-cv-00343 (S.D.N.Y.) [“*Sarnoff* Dkt.”].

² *E.g.*, Ex. 2 ¶¶ 74-82 (“Defendant Shan was set up by the CCP as an agent in plain sight . . . as the CCP’s supreme agent in America.”); Second Am. Compl., Dkt. No. 19, ¶ 64 (“Defendant Shan is a high-level intelligence agent of the CCP.”); Dkt. No. 33-8 (Mem. of Decision Granting Prelim. Injunction in bankruptcy case) at 24-25.

³ Ex. 2 ¶¶ 118-125; Dkt No. 19 ¶ 32; *Despins* Dkt. No. 10 ¶ 53; *Sarnoff* Dkt. No. 1 ¶¶ 173-179.

⁴ The *Wyatt* action couches the FARA claim as one for “declaratory judgment,” to “compel registration” as a foreign agent. Ex. 2 ¶¶ 118-125. The court cannot compel the DOJ to so designate Mr. Shan and his child, but that’s not really the point; the goal is an excuse, yet again, to publicly broadcast false, defamatory claims about the Shans.

⁵ All four actions were filed between November 28, 2022 and March 17, 2023. *See* Dkt. No. 1; *Despins* Dkt. No. 1; *Sarnoff* Dkt. No. 1; Ex. 2.

JONES DAY

Honorable Andrew L. Carter, Jr.
March 20, 2023
Page 3

sanctions in both this case and *An v. Despins*,⁶ shows determined, willful intent to abuse the federal judiciary on Kwok's behalf for precisely as long as the courts tolerate it.

In yet another reminder of the malice and incoherence of plaintiffs' efforts, today these same lawyers filed a letter in the parallel *Despins* action, in which they again declared that Kwok has nothing to do with these FARA suits, but in the next breath called the criminal case "a sham" and accused U.S. Attorney Damian Williams of – you guessed it – being "compromised" by the Chinese Communist Party. *See* Ex. 3 (counsel's letter).

We respectfully request that the Court end this travesty. The plaintiffs and their lawyers should be sanctioned and subject to an anti-filing injunction.

Sincerely,

/s/ Andrew E. Lelling

Andrew E. Lelling, Esq.

cc: Plaintiffs' counsel (by ECF and email)
Lee Armstrong, Esq. (Jones Day)

Enclosures

⁶ *Despins* Dkt. Nos. 15, 24 (motion to dismiss); *Despins* Dkt. Nos. 12, 25 (motion for sanctions); Dkt. Nos. 23, 35 (motion to dismiss); Dkt. Nos. 32, 38 (motion for sanctions).